

MEDIATION AND OTHER METHODS TO FOSTER DEMOCRATIC DIALOGUE

4 JUNE - 15 JUNE, 2012

In co-operation with Benjamin N. Cardozo School of Law, Yeshiva University, New York and Hamline University School of Law, Minnesota

DETAILED COURSE DESCRIPTION

Through lecture, discussion, demonstration, role-plays, and other interactive exercises, students will be introduced to mediation theory and skills and examine the impact of culture and context on the mediation approach adopted. Examples will focus on civil and criminal mediation models and scenarios from the United States, Central and Eastern Europe, and other countries of program participants. The course also will examine a variety of strategies to foster and support democratic and constructive dialogue, particularly focusing on "high-conflict" situations involving inter-ethnic tensions. Participants will study international efforts to promote meaningful democratic dialogue in times of national and international crisis. Participants should come prepared for a highly participatory learning experience.

JUNE 4, MONDAY

Principles of Dispute Settlement and Introduction to Negotiation Theory

Through lecture and general discussion, students will examine assumptions about dispute settlement, analyse various dispute settlement methodologies, and explore the role of mediation within that context. A small group negotiation exercise will illuminate the principles and dynamics underlying voluntary dispute settlement procedures, and a lecture on the role of mediation in the context of the development of a rule of law in Central and Eastern Europe will be presented.

JUNE 5, TUESDAY

Overview of the Mediation Process and Related Mediator Skills/Beginning the Mediation Conference

A demonstration of a mediator at work will be followed by an examination of the various functions the mediator fulfils and the types of traits and interpersonal skills required of persons discharging these functions. A presentation on how mediators create a constructive environment and open a session will be followed by practice. A critique of retributive justice will be provided by Dr. Bard. In addition, she will introduce the concept of restorative justice via victim-offender mediation.

JUNE 6, WEDNESDAY

Listening Constructively to Disputing Parties and Crafting a Discussion Agenda

Lecture and interactive exercises will focus on unique aspects of listening to parties in conflict with the object of promoting constructive dialogue. Fact-gathering, note-taking and questioning techniques will be explored. The mediator's task of translating hostile and adversarial communication into building blocks of collaborative dialogue will be practiced, as well as the mediator's role in identifying, framing and ordering the issues in dispute.

JUNE 7, THURSDAY

Dealing Effectively with Diversity and Generating Movement Towards Understanding and Agreement; Applying Mediation in a Criminal Context

Participants will participate in discussions, analysis and exercises focusing on interpersonal and communication skills critical to facilitating dialogue in contexts in which issues of cultural, gender and ethnic diversity are pervasive. In addition, students will examine the rationale of various settlement strategies that a mediator can use to move the parties towards agreement. Analysis will highlight persuasive techniques for moving parties from impasse to settlement. Participants will explore the unique theoretical and practical challenges posed by designing and implementing mediation in criminal cases. Special emphasis will be given to adaptation and use in Eastern/Central Europe, including in Hungary where recent amendments to the Criminal Procedural Code authorize use of mediation effective January 2007. A working lunch will follow highlighting informal discussion and advice regarding study and business-building opportunities in the field of conflict resolution.

JUNE 8, FRIDAY

Meeting Separately with the Parties; Capturing Agreements between Parties

Participants will examine the purposes and strategies of meeting in caucus (separate) sessions with the parties and then practice the skill. Participants will engage in discussion and exercises regarding what should or should not be committed to the written agreement. Particular attention will be focused on format, language, “traps” to avoid, and other principles of good drafting.

JUNE 11, MONDAY

Bringing Closure to Sessions; Justice and Dispute Resolution

The day will begin with review and practice of strategies for effectively closing a session and conclude with the viewing of a film depicting the impact of various processes on an individual’s quest for justice.

JUNE 12, TUESDAY

Considerations and Strategies in Dealing with Complex, Multi-Ethnic Cases

Professors will “accompany” participants through a conflict analysis to determine the propriety and nature of a mediation intervention in a multi-party, multi-ethnic community conflict. Elements of the analysis will include: party identification; ripeness for intervention; mediator qualifications relevant for effective service; and pre-dispute entry issues and responsibilities. In small groups, participants will analyse a case study to develop performance skills for conducting a multiparty mediation. Elements of the analysis will include: structuring the sessions, capitalizing on role of advocates and spokespersons, planning considerations when cultural diversity is present, and using translators effectively.

JUNE 13, WEDNESDAY

Mindfulness in Mediation; Co-Mediation Orientation; Using Facilitation to Foster Democratic and Constructive Dialogue

Participants will engage in exercises and discussion about mindfulness and its use in mediation. This will be followed by a discussion and analysis of the strengths and weaknesses of a co-mediation approach and the principles guiding the effective execution of team mediation. The class will conclude with an examination of the relationship between facilitation and mediation and of the tasks and tools used by facilitators and an opportunity to practice facilitation skills.

JUNE 14, THURSDAY

Ethical Considerations in Mediation; An Overview of Mediation in Western Europe and Reports from Around the World

Participants will engage in discussion and exercises focusing on ethical dilemmas faced by mediators, particularly challenges to a mediator's impartiality, and the potential for abuse of discretion and power. A critical review of a mediation session will follow. The class will conclude with reports and discussion of the use of mediation around the world with a special focus on Western Europe.

JUNE 15, FRIDAY

Pulling the Pieces Together: Final Mediation Simulations; Reflections and Course Closure

Participants will conduct a mediation session and analysis will follow the completion of each simulation. Following an evaluation, the course will conclude.